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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,132	01/22/2004	Brad Wood	3088.2.1	6412
7590 02/01/2006 Starkweather & Associates 9035 S 1300 E Suite 200 Sandy, UT 84094			EXAMINER WAGGONER, TIMOTHY R	
			ART UNIT 3651	PAPER NUMBER

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/763,132	Applicant(s) WOOD, BRAD	
	Examiner Timothy R. Waggoner	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-15 is/are rejected.
- 7) ☐ Claim(s) 4 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/22/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Claims 17 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 12/30/2005.

Applicant's election with traverse of Claims 1-16 drawn to Invention I in the reply filed on 12/30/2005 is acknowledged. The traversal is on the ground(s) that the inventions are not distinct because the preamble states that the claims are drawn to a method of controlling access to medication. This is not found persuasive because the claimed locking device of the method could be used for other inventions that control access to medication.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claim 15 is objected to because of the following informalities: In line 2 remove the word "be" from the phrase "can be have the". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 fails to positively identify the claimed element "a rotational member". It is not distinct whether "a rotational member" is actually part of the claimed combination. Positive identification of "a rotational member" is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Kooijmans USPN 5,409,132.

Kooijmans discloses a tablet dispenser comprising:

(Re claim 1) "a housing having a base and cover" (10 figure 1). "a medication cartridges, having a plurality of holes" (11 figure 4). "manual actuator" (31 figure 1). "a locking lug configure to prevent a rotation member form rotating" (23 figure 2). "a rewind protection member" (33 figure 2)

(Re claim 2) "Dispensing holes are housed in a penetrable seal" (29 figure 4)

(Re claim 3) "actuator acts as a lock when medication has been expelled" (31 figure 2)

(Re claim 5) "cover includes window for viewing the medication cartridge and a window for displaying device status." (16, 17 figure 1)

(Re claim 6) "housing is made of rigid material" (for the invention to perform as described it would need to be made of sufficiently rigid material)

(Re claim 7) "a handle that passes through the cover" (31 figure 1)

(Re claim 8) "base and cover are sealed together to prevent opening"
(figure 7)

(Re claim 9) "housing is coupled together with a hinge and locked with a
locking device" (figure 7)

(Re claim 10) "medication cartridge can be removed and replaced"
(column 6 line 50)

(Re Claim 11) "rotational member can be removed and replaced ... to
correspond to ... medication cartridge". (claim 9)

Claims 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by
Kurtenbach USPN 5,582,323.

(Re claim 12) "a battery" (60 figure 4). "a countdown timer coupled to the battery"
(figure 13). "a solenoid, electrically coupled to the timer and the battery" (18 figure 2). "a
locking lug connected to said solenoid" (40 figure 2). "a lug lock for holding the locking
lug in a retracted position" (46 figure 2). "a trigger for releasing the lug lock from the
locking lug" (50 figure 2). "a rewind protection member configured to prevent a rotational
member from rotating in reverse" (50 figure 2).

(Re claim 13) "said solenoid retracts said lug from said rotational member" (figure
6))

(Re claim 14) "tooth from the rotational member actuates the trigger to release
the lug lock" (50 figure 2)

(Re claim 15) "can have the timer reprogrammed" (lines 8-11 column 2)

Allowable Subject Matter

Claims 4 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

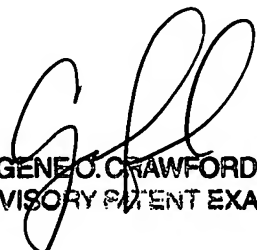
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN's 4,572,403 and 5,405,045.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER

Application/Control Number: 10/763,132
Art Unit: 3651

Page 6

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